

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO.: 1:14-CV-251**

KENNETH KAGONYERA

Plaintiff,

v.

**BUNCOMBE COUNTY,
BOBBY LEE MEDFORD, individually
and officially, SAMUEL MATTHEW
CONSTANCE, individually and
officially, GEORGE SPRINKLE,
individually and officially, MICHAEL
MURPHY, individually and officially,
and JOHN ELKINS, individually and
officially,**

Defendants.

**CONSENT PROTECTIVE ORDER
RELATING TO NORTH CAROLINA
INNOCENCE INQUIRY COMMISSION,
NORTH CAROLINA STATE BUREAU OF
INVESTIGATION, AND NORTH CAROLINA
STATE CRIME LABORATORY**

Pending before the Court is the Consent Motion for Protective Order. Upon a review of the record and the parties' motion, the Court **GRANTS** the motion and enters this Consent Protective Order negotiated by the parties.

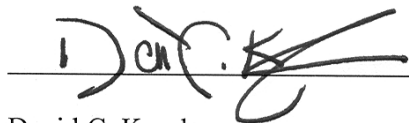
NOW COMES Buncombe County, Bobby Medford, Sam Constance, George Sprinkle, Michael Murphy, and John Elkins (hereafter "the Defendants"), by and through their respective undersigned counsel, Kenneth Kagonyera, (hereinafter "the Plaintiff"), by and through his undersigned counsel, and the North Carolina Innocence Inquiry Commission (hereinafter "the Commission") by its Executive Director, and the North Carolina State Bureau of Investigation (hereafter "SBI"), by and through its undersigned counsel, and the North Carolina State Crime Laboratory (hereafter "Laboratory"), by and through its undersigned counsel and stipulate to the entry of this Protective Order, authorizing the release of the Commission's investigative file, which includes Laboratory file number R 2000 24857, and SBI file number 2000-03156, to the attorneys for Plaintiff and Defendants. The terms of this Consent Protective Order shall be as follows

1. Except as may be otherwise provided by further order of this Court, all documents and /or materials disclosed pursuant to this ORDER shall be used only in connection with litigation in the above referenced caption and shall be disclosed only to the following persons:

- a. Parties and counsel for all parties, including attorneys and their respective staffs;
 - b. Consultants and experts involved in this litigation;
 - c. Any potential witness in this litigation, to the extent that it is necessary to tender to such witness a confidential document in order to elicit information relevant to the matters at issue in said litigation;
 - d. Court reporters, their transcribers, assistants and employees;
 - e. Any mediator designated by the Court or the parties to mediate this matter with the parties;
 - f. Any adjuster, claim representative or legal counsel working for an Insurance Company contractually responsible for providing a legal defense to or indemnifying any of the Defendants pursuant to insurance policies purchased by Defendant Buncombe County; and
 - g. All other persons to whom disclosure may be necessary to prosecute or defend this litigation.
2. The individuals and entities that are provided a copy of the Commission's investigative file are hereby ordered not to show, convey or reproduce any documents so designated, any parts or copies thereof, or any matter contained therein, to include extracts or summaries, to any individual or entity that would not otherwise have access to said documents, materials, or information under the provisions of this Protective Order. The parties may make copies of documents contained in the Commission's investigative file for their own use in this litigation.
3. The Parties may provide copies of material contained in the Commission's investigative file to the persons identified in paragraph 1 above, provided that such persons agree that they will keep such material confidential.
4. The production or disclosure of the Commission's investigative file pursuant to the terms of this ORDER shall not waive or prejudice the right of any party to object to the production or admissibility of documents or information, on grounds other than confidentiality, in this litigation.
5. All information and materials derived from the Commission's investigative file shall be used by the parties only in connection with the litigation of this matter and shall not be used or disclosed to or by any person for any other purpose, except as provided herein.

6. The parties are responsible for notifying any person who is provided any portion of the Commission's investigative file of the terms of this Protective Order. The parties shall keep a record of all persons to whom such disclosures are made.
7. It is specifically agreed that making the materials or documents available for inspection and the production of the materials or documents shall not constitute a waiver by the parties or the Commission of any claim of confidentiality, and the production of such materials or documents shall not be considered as an acknowledgment that the materials or documents may be admissible into evidence at the hearing of this matter.
8. Upon final adjudication of this action, the disposition of all confidential information subject to the provisions of this Order (including any copies made and/or computer materials made or stored) shall be subject to further Order of this Court.
9. This Protective Order shall not prevent the parties, counsel for the SBI and Laboratory, or the Commission from applying for relief from this Protective Order, or from applying for further or additional Protective Orders, or from agreeing between themselves to modification of this Protective Order, with the concurrence of the Commission and subject to the approval of the parties.
10. This Protective Order shall not apply to documents or materials that have otherwise become public records pursuant to N.C.G.S. 15A-1468(e), or that have been lawfully obtained from a source other than the Innocence Commission's files.

Signed: November 7, 2014



David C. Keesler
United States Magistrate Judge



Agreed to this 6th day of November, 2014.

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